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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1982

GILBERT G. VELILLA

APPELLANT

-vs-

U.T.C./HAMILTON STANDARD DIVISION
LIBERTY MUTUAL INSURANCE COMPANY
WORKER'S COMPENSATION COMMISSIONER
THE STATE OF CONNECTICUT
ET AL

APPELLEE

JURISDICTIONAL STATEMENT ON APPEAL FROM THE SUPREME COURT OF CONNECTICUT

RESPECTFULLY SUBMITTED BY

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QUESTIONS PRESENTED FOR REVIEW

1. Appellant, hereby adopts for the record and as appendix (c) the Motion For Ruling as presented to the State of Connecticut Supreme Court, and as appendix (d) the Motion For Reconsideration, as Exhibits.
2. Is the State Supreme Court Ruling of Adzima v. U.A.C./Norden Division,177 Conn. 107, 112-13 (1979) Unconstitutional;where it denies a Notice Provision to those seeking Extent of Disability benefits as of Right.
3. Is the State of Connecticut Practise Book Rule of Denial of Direct Review by it's State Supreme Court(when the issues stem from an Administrative Forum) Unconstitutional; under Procedural Due Process;and by the Equal Privileges and Immunities clause;as well as the Equal Protection of the Laws of the 14th Amendment of the Constitution.
4. Is the State of Connecticut Practise Book Rule of Denial of Right to Trial by Jury (when the issues stem from an Administrative Forum) Unconstitutional under the 7th Amendment of the Constitution;and in Violation also of Due Process under the 14th Amendment.
5. Appellant,alleges he was subjected to an unlawful,illegal and Unconstitutional Act by the State Superior Court,which used in it's Ruling the (1979) Adzima Criteria; instead of the Law of the Case,which was the Menzies v. Fisher 165 Conn. 338 July 1973. All the issues relevant to the instant matter took place (accident,injury, and relapses) one year after the Menzies Ruling (1974-1975). The Menzies Criteria strictly upheld the Right to a Notice Provision,and that it had to be specific as the wording of the Legislative Statute Sec. 31-297b,so required.
6. Appellant,alleges that it was a deliberate Fraudulent Act,and a Breach of Contract on the part of Appellee's (Employer-Insurer) to have ignored the Legislative Law Sec. 31-307b. (Benefits after Relapse from recovery.)which required them to provide Compensation Benefits.Or they had the Right to contest according to Law. The failure by Employer-Insurer,Appellee's to comply with the above,prohibits them from contesting then and now Appellants Right to Compensation Benefits or the Extent of his Disability.According to Legislative Law Sec. 31-297b. of the Compensation Statutes.
7. Appellant, alleges that the Workmen's Compensation Commissioner as well as the Appellee's (Employer-Insurer) willfully Deprived him of State Conferred Rights (Compensation Statutes) in Violation of Procedural Due Process, and under the Equal Privileges and Immunities clause;as well as the Equal

Protection of the Law's of the 14th Amendment of the Constitution.

A. By not addressing the claims of Law made by the parties during the Formal Hearing,in his Finding and Award,(the Statutes so require).

B. By excluding Written Medicals, essential to the proving of his claim as the burden of proof was his.All signed Medical Reports are permissable as is expressed in the Statutes under Sec.31-298. Conduct of Hearings (appendix)

C. By improper adjudication of the facts and the evidence ie; exhibits, (Attending Physicians First Report of Injury, and Office visit notations of Attending Physician.)

D. By not requesting from the Respondent-Appellee's the Original Insurance Form or alternatively a Written Physicians excuse for absence.All the above necessary elements for a credibility evaluation.

E. A Hearing merely Perfunctory,defeats the Fairness Doctrine of Procedural Due Process,and as such,is a Violation of the 14th Amendment.

8.The Fraudulent Practise perpetrated by Appellee's (Employer-Insurer) first became known to Appellant during the preparation of the Motion For Ruling to the State Supreme Court.

A.It was in essence new evidence.

B. The Violation of Sec. 31-307b. had never been alleged clearly by Appellant in prior State or Federal Proceedings.(It was also missed by the Fed.Court). Nor had he shown that the Menzies Criteria was the Law of the case in the Federal District Court or the Second Circuit Court of Appeals.

C. Under the State of Connecticut Workmen's Compensation Law's,there is no Statute of Limitations.(Once an accident and injury have been recorded and paid for under the Statute's).

D. That where unlawful,illegal,and Unconstitutional Adjudication,had taken place at the Superior Court level,and the State Supreme Court had failed to review.Connecticut not having at the present time a Court of Appeals. Appellants Motion for Ruling to the State Supreme Court to correct the illegal Procedure and Rulings was proper and Appellant based on the need in accordance with established Law was entitled to Review and Ruling.

9.As to the Jurisdiction Status of Appellant before this United States Supreme Court.Appellant relies on TITLE 28 1251 TITLE 28 1343 at(3) and the 14th Amendment of the U.S.Constitution. As well as the 7th Amendment of the U.S. Constitution.

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THE STATE OF CONNECTICUT
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JURISDICTIONAL STATEMENT

Appellant on Appeal from the State Supreme Court of Connecticut,respectfully presents that the questions and issues involved in this case are substantial,and require the consideration of this Court,with Brief's on the merits and oral arguement,for their resolution.In order that a Manifest Injustice be corrected. As Legal precedent,the established Law,and the U.S.Constitution so require.

OPINION BELOW

The State of Connecticut Supreme Court Dissmissed Appellants Motion for Ruling on December 21, 1982 and received on December 24, 1982. Motion for Reconsideration was Denied on January 7, 1983 and received on January 12, 1983 by Appellant. Copy's of both the Motions and the Court Order's are attached in the (appendix) of this statement.

JURISDICTION

Appellant,where the Issues presented to the State Supreme Court of Connecticut for Ruling and Review all dealt with Fraudulent Practise and Violations of Law by parties of their State,along with Unfair Administrative and Unlawful, illegal,Superior Court Rulings.And that State Rules of Practise were Unconstitutional,and the claim that those Findings and Rulings had been based in error (causing harmful injury and loss of property) on a State Supreme Court Ruling Adzima (1979) which did not even exist at the time the incidents (accident, injury,and relapses took place 1974-1975). The governing Law of the Case was Menzies (July 1973). Both Rulings are part of the (appendix).

The only Jurisdiction available to correct those wrongs,absent a State Court of Appeals(there is none at the present time) was the State Supreme Court.

Appellant,invoked Title 28 1251 so that the State Supreme Court would have further jurisdiction if needed.As the U.S. Supreme Court has Original but not exclusive jurisdiction,as Legal precedent grants the State Court the right to adjudicate,where a Citizen of another State seeks justice from wrongs,by parties of their State,and where the State itself is not at the time being sued, and is neither a Plaintiff or Defendent.

Upon Appeal from the State Supreme Court, the State becomes a party and is named in Caption,as an Appellee. The State Supreme Court refusal to correct the unlawful wrongs by it's Administrative and Judicial arms gives rise to this Appeal before the Court. Where the Appellant is a Citizen of the State of Massachusetts and in the State of Connecticut his Constitutional Rights have been Violated both through Fraudulent Practise by Appellee's (Employer- Insurer) and under color of State Law he has been Deprived through unlawful and illegal Adjudication,Administrative and Judicial.

In accordance to the above described grounds the Jurisdiction of this United States Supreme Court is invoked under U.S.C.A. TITLE 28 1251 and TITLE 28 1343 at (3) the 7th Amendment and the 14th Amendment of the U.S. Constitution.

The Dismissal Order,upon Motion for Ruling by the State Supreme Court was dated December 21,1982. The Denial Order upon Motion for Reconsideration was dated January 7, 1983. The Notice of Appeal was filed on January 19,1983 it was submitted in hand to the Chief Clerk's office of the State Supreme Court. An additional copy was presented in hand at the Clerk's office of the Superior Court, the possessor's of the record,on January 19,1983.

CONSTITUTIONAL PROVISION INVOLVED

The 7th Amendment of the U.S. Constitution:

"The right to a Trial by Jury"

That on Appeal to the Superior Court,from the Finding and Award of the Workmen's Compensation Commissioner.Appellant had requested Trial by Jury, which was objected to in accordance to the Rules of Connecticut Practise.

Where the Issues were of Law (Non-Compliance of the Statutes,Breach of Contract)and not of Equity,the right to a Jury Trial was Inviolate.

The 14th Amendment of the U.S.Constitution:

> " no state shall make or enforce any law which shall abridge privileges or immunities of citizens of United States,nor deprive any person of life,liberty or property without due process of law, nor deny equal protection of laws ".

Appellant was subjected to; By Appellee's (Employer-Insurer) Fraud and Fraudulent Practise;Obstruction of Justice,through illegally subverting claim to Health Insurance Carrier instead of going through the Compensation Board.

Administratively;Violation of Procedural Due Process,through Suppression of Medicals(Violation of Statutes) and Unfair Hearing.

Judicially; Denied Trial by Jury, (Practise Book Rules) and illegally compelled to be Adjudicated by a Supreme Court Law passed (5) years later Adzima (1979) and Denied Direct Supreme Court Review(Practise Book Rules).

When accident,injury, and relapses took place (1974-1975) The prevailing interpretation of the Statute Sec. 31-297b by the Supreme Court of Connecticut was in the Menzies v. Fisher 165 Conn. 338 P.345-347 (1973) Case.

EXCERPT CITED: Page 347 (The full text is part of Appendix.)

> " We hold therefore, that the giving of notice by the employer as to the specific grounds on which the right to compensation is contested is a condition precedent to the defense of the action.The duty to comply with statute rests on the employer."
> See Newell v. North Ancon Reel Co. 161 me 461, 214 A.2d. 97.

U.S.C.A. TITLE 28 1251:

Under Art.III, Sec. 2, of the Constitution; Provides,that in all cases in which a State is a party the Supreme Court has Original Jurisdiction. U.S.C.A. TITLE 28 1343 at (3) : With authorization of law being provided by Title 28 1251 and the 14th Amendment of the Constitution further Original Jurisdiction is conferred to the Federal Courts (which include the Supreme Court);"(3)"To redress the deprivation,under color of any State Law, Statute, ordinance,regulation,custom or usage,of any right,privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States: "

CASE CITED:

> " State Court's inability to grant relief does not bar a Federal Court from assuming jurisdiction to inquire into alleged deprivation of Federal Constitutional rights. Baker v. Carr, Tenn. 1962, 82 S.CT. 691, 369 U.S. 186 7 L.Ed.2d 663,on remand 206 F.Supp. 341."

CASE CITED:

> " Federal district court has jurisdiction where colorable constitutional claims of equal protection and due process have been raised. Like v.Carter C.A. Mo.1971,448 F.2d 798,certiorari denied 92 S.CT. 1309,405 U.S. 1045, 31 L.Ed. 2d 588, on remand 353 F.Supp. 405."

STATE STATUTES: Workmen's Compensation Statutes relevant to the instant matter will be attached in the (Appendix).

STATEMENT OF THE CASE

BRIEF HISTORY OF THE CASE

Appellant while on the job in the early morning hours of August 23, 1974 had an accident which resulted in an injury that totally disabled him for ten days.Serious injury was sustained;through forcefully striking machine with his forhead and upper left chest,the impact caused him to lose his footing and was thrown backwards hitting his left arm and hand on workbench,continuing the fall he struck a metal work chair with his neck back of head and upper back,finally landing on the concrete floor with bone jarring lower back impact.

Workmen's Compensation paid for his treatment and six days loss of work. Though not completly recovered returned to work on September 3, 1974 continual pain and discomfort(nausea,chest constrictions,head neck and back pains) caused him to become unable to perform his work duties,the last day worked was October 30, 1974. On November 5, 1974 after consulting with the same Attending Physician seen at inception of injury Appellant filed for Workmen's Compensation Benefits under Sec. 31-307b.,through the Employer's Insurance Form it was signed by the Attending Physician,it stated Appellant was being treated for the work related injury of late August 1974.

In late December of 1974 never having provided Compensation Benefits.Appellee's (Employer-Insurer)on their own without going through the Legal Process required by the Workmen's Compensation Statutes.Denied his claim (Fraudulent Practise) out of hand,and made arrangements to have the Health Insurance Carrier,Connecticut General Ins.Co. pay his Disability benefits. Being unaware of his Right's Appellant accepted. Shortly thereafter the Health Insurance Carrier cut off his benefits.Still unwell he was unable to work,and without any income.

Several weeks later during phone conversations with the Company Personnel Advisor,tried and did return to work,and lasted three weeks before fatigue and stress caused by Harassment became unendurable.Appellant,again unwell and bedridden could not return to work and advised the Personnel Dept. of same.Three weeks later he was sent a mailagram stating he had been terminated,(April 1975)

After five Informal Hearings some with Representative Counsel and some Pro-Se a Formal Hearing was finally had,on July 30,1979 the Commissioner's Finding and Award Denied Appellants Right to Workmen's Compensation Benefit's.Upon an Appeal to the Superior Court,Judge Thomas Corrigan Affirmed the Commissioner's Finding using the Unlawful and illegal,Adzima Ruling of 1979 instead of the Menzies Ruling which was the governing Law of the Case.

Secure of belief that he was being victimized by clever manipulation of the

Law's.Appellant without the needed expertise to prove his contentions nevertheless,submitted a Petition for Certification for Review to the State Supreme Court of Connecticut on October 2, 1980. On November 20,1980 an Order of Denied was sent to Appellant.(Copy of Petition and of Denial Order,as Appendix.)

On January 27, 1981 sixty seven day's after the State Supreme Court Denial, Appellant filed a Civil Action Deprivation of Civil Rights Law Suit seeking Monetary Damages of $2,500,000. two and a half million dollars. Motion's to Dismiss by Respondents was granted by the Federal District Court at Hartford on the grounds of Rule (12) (b) (6) Failure to state a claim upon which Relief can be granted. The Date of Ruling and Dismissal Order was June 12,1981. Upon Appeal to the U.S. Court of Appeals for the Second Circuit the District Court was Affirmed. On February 17, 1982. Motion for Rehearing en banc and Reconsideration was Denied on June 3,1982. Upon which Appellant filed Petition for Extraordinary Writ of Mandamus to this U.S.Supreme Court on July 26,1982. Which was Denied on October 4,1982. Appellant filed Petition for Rehearing which was also Denied on November 15,1982. Petition For Certiorari had been refused by U.S. Clerk's Office due to a one day late failing.

OBSERVATION

What transpired during the Federal Court Dismissal and Appeals is no longer relevant. Appellant due to poor health failed the filing of Certiorari by one day.Had that not occurred the Court would have undoubtedly found for Petitioner in accordance with Legal precedent and the established Law.

Writ for Mandamus was Denied by this Court for whatever reasons; lack of majority vote,or because Mandamus may have seemed to drastic a measure.

Appellant has alleged that wrongful Adjudication was had in the Federal Court's,an explanation follows;

The reasons for the Federal District Court Dismissal and the Affirmation by the Second Circuit were premised on (5) points.

1. That Appellant was claiming a Violation of his Constitutional rights because he had been Denied Workmen's Compensation Benefits.

ANSWER: That is a false premise.

2. That there had been no Violation of a Notice Provision because Compensation Benefits were paid,and that Respondents (Employer-Insurer) contested only extent of disability,akin to the Adsims Decision.

ANSWER: Compensation Benefits upon Relapse were not paid as Sec.31-307b. of the Statutes requires.And therefore a Notice Provision was an absolute requirement of Law under Sec.31-297b.

In Adzima the fullfillment of every Due Benefit was a reality except for (extent of disability) which is an additional benefit.

The return to work,as in the instant matter is the major difference,when there is; break-off of coverage,the Liability has ceased.

And at a later date upon a claim for Relapse Benefits, it must first be accepted,just like a new claim.

Only after acceptance of Liability upon Relapse has been accomplished, by the payment of Benefits and Medicals can the remaining issue (extent of disability) under Sec. 31-308 (a) to (m) be a factor.

They are after all two different types of Benefits;The first is for continuing benefits due to a Relapse.The second is for additional further benefits for loss of use of percentage (extent of disability).

3. That Written and signed Medicals sought to be introduced by Appellant and excluded by the Commissioner at request by objection of Respondent Attorney, did not raise to a level of Due Process Violation.

ANSWER: That where the Burden of proving his claim was on Appellant,and where the Statute Sec. 31-298. Conduct of hearings. clearly state all Written and signed Medicals are acceptable. It demonstrates an Unfair Hearing and a Violation of Procedural Due Process has taken place.

4. That Conspiracy allegations by Appellant were vague and conclusory,and that a Letter in question (From the Insurer Representative to Appellants Attending Physician)was proper,and expressed not work-related as to Appellants condition.

ANSWER: Why,if everything was so proper did Respondents not use that Letter as a basis for Legal Denial of his claim and proceed as the Legislative Statute Required to file a Notice with the Commissioner and offer as evidence that Letter,a procedure that an envelope and stamp was the only cost.

Why? Simply because to do so would have made claimant aware of his rights, and to proceed to a Hearing expeditiously would have caused the Attending Physician's turn around,or change of opinion,to not hold up under cross examination. Respondents preferred to illegally (against the Statutes) turn his claim over to the Health Insurance Carrier,who paid for the Disability Benefits.

Upon a Relapse claimant's are at the mercy of the Employer-Insurer,due to unawareness of their rights. The very factor sought to be eliminated by the Legislator's of Connecticut when they enacted the Statute Sec.31-297b.

5. That it was not the role of a Federal Court to provide a Forum for relitigation of a Commissioner evidentiary rulings.

ANSWER: Having looked up Wood v. Strickland, 420 U.S. 308,326(1975) when first alleged by Respondents in their Brief and again when used by the Second Circuit in it's Ruling. The word relitigation was used,but not so as to be the criteria of the issues presented.(Where teen ager's were expelled or castigated for conduct outside of school hours,arbitrarily by the School Board).

The case was Remanded back to the Court of Appeals.

Relitigation, when one's Constitutional Right's are at stake,justice requires every available Forum be accessible for Review. To aid it's Citizen's from harmful and wrongful procedure,is the very essence of what justice is all about.

In closing this Observation,it should be noted thatnone of the Federal Rulings made mention of the Deprivation of Right to Trial by Jury or the Right to Direct Review by the State Supreme Court as is enjoyed by most Citizens. Nor reference made to the Governing Law of the Case the Menzies Ruling.

REASONS FOR PLENARY CONSIDERATION

The Unconstitutionality of the Adzima Ruling:

An illustration to the Court of where and how the Adzima Ruling is Violative of Due Process Rights to a Notice,and is Unconstitutional:

To those seeking Additional benefits,as to Extent of Disability under Sec. 31-308 (a) to (m).

A Claimant back on the job,either at the original workplace,or a different Employer,who had sustained an injury was paid benefits and Medicals. Is now well,but has an pronounced disfigurement from the original injury plus a misalignment of two fingers causing a less then normal grip.

Informs the Employer-Insurer or ex-employer however the case may be,that he now seeks Compensation for loss of use and disfigurement as provided for in the Statutes.

He is entitled to such a claim by Law. But he may wait till doomsday to have the issue resolved,because under Adzima the Right to a Notice is not necessary

Consequently the claimant has no knowledge as to why his claim is not being honored. And should he retain Attorney's, they also could be in the dark as to why and what grounds the contest will be held upon at a Hearing.

The Adzima Decision inadvertently set back Workmen's Compensation Law's by at least twenty years,and in the process effectively Denied Procedural Due Process to any and all who may have to present a claim for Extent of Disability even if there has been a break-off, of return to work. For it further proclaims that a Notice is required only upon initial claim. Unmindful that unlike Adzima the greater majority return to work,and thusly are vulnerable for abuse.

The very same Abuse sought to be eliminated by the Legislator's when they enacted Sec. 31-297b. into Law.

The Unconstitutionality of Denial of Right to Trial by Jury.

The Inviolate Right to a Trial by Jury,was Denied to Appellant in the State of Connecticut Superior Court by Respondents on the grounds the Practise Book Rules forbade the Right when the Issues stemmed from Administative Forum's.

Where Legal Precedent of Law has found that when the or any issue is one of Law and not of Equity the Right to Trial by Jury is in fact Inviolate.

Appellant had alleged in the Superior Court that the Menzies Ruling and the Right to a Notice were at Issue,an issue clearly one of Law. The Court using illegally the Adzima Ruling compelled Appellant unlawfully to besubjected to a supposed intent which is found no where in the original Ruling. Established Law and Precedent state clearly that Law's Legislative or Judicial are understood by their wording. There is no divining of intent. State Supreme Court Judge Bogdanski dissenting in Adzima and concurring in the original Menzies is most accurate as to the question of intent and of being cognizant although it need not be stated,of the Rights of a claimant and of Due Process.

The Denial of Direct Review by the State Supreme Court:

Where all cases taken in Appeal from the Superior Court of Connecticut are granted Direct Review by the Highest Court.There was and currently still not available a Court of Appeals in the State of Connecticut. That to Deny that Right enjoyed by all others merely on the grounds that Administrative cases according to the Practise Book Rules; Do not have that Right is Unconstitutional under the Equal Protection of the Law's of the 14th Amendment.

The Governing Law of the Case was Menzies v. Fisher 165 Conn. 338 July 1973.:

The State Supreme Court of Connecticut had Ruled on a case,that presented Legislative Law Sec. 31-297b as the Right to preclude Respondents from contesting a claim on the basis of failing to be specific in it's Notice of Denial of claim. The Court held that indeed the Notice had to be specific in order that faithful interpretation of the Statute be preserved. It's wording was clear and not subject to broadening or narrowing. That Supreme Court Ruling was the Law Controlling,when Appellant suffered his accident,injury, and Relapses. Which meant that upon the Relapse when a Compensation claim was made the Respondents had to either pay Compensation Benefit's as the Statute specified in it's wording (Sec.31-307b.) or contest.The failure to do either,caused them forfeiture of the right to contest then now and for as long as Appellant's Disability may last. As the Statute Sec.31-297b. clearly stated in it's wording.

Appellee's not only failed to accept Liability they also Denied his claim

out of hand without going through the established by Law procedure of advising the Commissioner. Even if they do not have formally contest as Adzima proclaims they are still subject to a Hearing. And it is presupposed that Denial on their own without Formal Hearing is an illegal practise. And an Obstruction of Justice as they are under Contract with the State as to Legal Compliance.

In the instant matter, when before the Superior Court, the Ruling stated and implied,(unlawfully,illegally,and in Violation of Appellants Constitutional rights,and of every established Legal Precedent) that even if Menzies were the Governing Law of the Case,it would not help Appellant because of what the Adzima Ruling,stated about the Right to a Notice being necessary only upon initial claim.

Which is the same as if,the Menzies Ruling were not used at all and only the Adzima Ruling were the Controlling Law.

Under those conditions it would have to be Divination,and not Law that is being used. For had the Formal Hearing been held in 1977or 1978 (Appellant struggled to have a Formal Hearing held for the longest of times,but only Informal Hearings were granted, under one excuse or another?) to apply any part of the Adzima Criteriawhich did not even exist until 1979 by the Commissioner.or the Court's had to be divination. It is not an accepted principle of the established Law.

It is Legally clear that Appellant was Violated by (Employer-Insurer) through Fraudulent Practise,and Obstruction of Justice(Denial of Notice and of Hearing) and under color of State Law Administratively,and Judicially,through improper,and illegal Procedural Due Process of Law. Causing harmful further personal injury damage to Appellant. Whose only objective has been to have his Rights correctly observed at every level of Adjudication.

The Fraud,and Fraudulent Practise,and the Obstruction of Justice:

That while in the preparation of the Constitutional Issues for presentation on Motion For Ruling to the State Supreme Court of Connecticut;it first became known to Appellant that Deliberate Fraud,and Fraudulent Practise had been perpetrated by Employer- Insurer through failure to address Legislative Law Sec. Sec. 31-307b. (bearing in mind that it took place only a year after the Menzies Ruling.) and it's absolute requirement that upon a Relapse of the injury, Respondents either had to pay Benefits or Contest. They did not accept their as described Liability and failed to Contest. Further,they contrary to the Statute and their Contractual Obligation with the State to properly observe the Compensation Law's did Deny Appellants claim out of hand and without benefit of a Hearing either Informal or Formal and turned his claim over to the Health Ins.

Carrier. Where the Law provides those Rights and where Respondent-Appellee's (Employer-Insurer) knowingly evade same it is Obstruction of Justice.

The Violation of Procedural Due Process by the Workmen's Compensation Commissioner,and the Denial of Right to the Equal Protection of the Law's under the 14th Amendment of the U.S. Constitution.

In accordance with the Statutes; The Commissioner had to address the claims of Law made by the Parties during the Formal Hearing in his Finding and Award. ie; As to the Compliance of Respondent's of;Sec31-307b. and Sec. 31-297b. The Commissioner failed to do so. (Finding and Award as part of Appendix)

In accordance with the Statutes; The Commissioner was required to accept all Written and signed Medicals. The excuse that a certain Physician could have been present for the Hearing,and knowing that he could not and would not be available for an indefinite amount of time for vacation purposes,was just that an excuse. An unfair criteria for an acceptance of a Medical Report of Dr.J.Luby whom was seen by Appellant upon request of the Respondents could also have appeared as he was retired,Appellant had requested he attend Respondents stated he would not be made available due to his being temporarily in North Carolina.

Dr. J.Luby's Report nevertheless was part of the Record and cited by the Federal District Court,as being adverse for Appellant unknowing that it was a Report requested by Respondents.

Where the Burden of proving his claim was upon Appellant, it was Unconscionable to Deprive and suppress favorable evidence and permit only the non-committal Reports and that of Respondents.

The Commissioner was Violative of Due Process Rights of Appellant in an Administrative Hearing.

In accordance with correct and proper Evaluation of the Fact's and the Evidence. It can be seen that Appellant has been under Medical care and treatment exclusively for conditions that were related to the First Report of Injury,and ailments noted during visitations to Attending Physician, during the ten day period he was out Aug.23,1974-Sept.3,1974.

The Commissioner,knowingly,and improperly,Evaluated the Fact's and the Evidence. An improper and Unfair Hearing,is Violative of Rights under the Equal Protection clauses of the 14th. Amendment.

In accordance with the Statute's,the Commissioner had the Right to request from Respondents the Original Insurance Form after probing at length on the subject during the Hearing,he had the Authority under the Statutes to have Repondents produce same. Not to have done so demonstrates further suppression of favorable evidence necessary for a credibility evaluation.

A Hearing, Perfunctory at it's best,is in Violation of the Fairness Doctrine of Procedural Due Process,and as such is in Violation of the Equal Protection clauses of the 14th Amendment of the U.S.Constitution.

The Commissioner by his actions demonstrated,Appellant was to be Denied all Right's Privileges,and Protection's enjoyed by other's,even without Attorney's.

The Violation of State Conferred Right's and Privileges:

It can be noted by the Court that based on the above descriptive conduct both the Workmen's Compensation Commissioner as well as Appellee's Employer-Insurer both willfully Deprived Appellant of State Conferred Right's (The Compensation Statute's) in Violation of Procedural Due Process,under the Equal Privileges and Immunities clause;as well as the Equal Protection of the Law's of the 14th Amendment of the U.S. Constitution.

Legal Precedent of the above Deprivation of Right's is cited.

CASE CITED:

"Violations of State Conferred rights and privileges are sufficient to constitute a deprivation of 'equal protection of the laws' for purposes of thie section. Life Insurance Company of North America V. Reichardt, C.A. Cal. 1979, 591 F 2d, 499."

Legal Precedent as to the Right to Trial by Jury is cited.

CASE CITED:

" D.C. La. 1982. Issue is triable by jury of right if it is legal in nature as opposed to equitable. Fed. Rules Civ. Proc. Rule 38,28 U.S.C.A.-Chevron,U.S.A.,Inc. V. Oubre,93 F.R.D. 622."

Legal Precedent as to the 14th Amendment safeguard is cited.

CASE CITED:

" This Amendment governs any action of a state whether through its legislature,through its courts,or through its executive or administrative officers. Voigt v. Webb D.C. Wash.1942,47 F.Supp. 743. "

A Workmen's Compensation Case in which a claimant was Denied the Right to file a claim for Extent of Disability Benefits,because the wording of the Statute prevented his eligibility,for that benefit. The Ohio State Court Ruled the Statute Unconstitutional.

CASE CITED:

" The provision of compensation act limiting eligibility to file an application for determination of percentage of permanent partial disability to persons who(1)have recived compensation for temporary total disability,or(2)would have been eligible for compensation for temporary total disability had employer not paid such person wages during period of disability,(3)have received compensation for partial disability based on impairment of earning capacity,is unconstitutional as in conflict with equal protection requirements. Fleischman v.Flowers, 1971, 267 N.E.2d 318 25 Ohio St. 2d 131."

As can be noted by the Court most injured on the job Worker's return to work

the Adzima case was rare because of his demise,and prior Hospitalization and the need for operation's.The Court can also note that Liability can only be presumed in the most exceptional cases.There is practically always a contest and a Hearing as to the extent of disability benefit,because of the great cost feature to the Insurer's. The Notice given to the above claimant must have Disclaimed Liability due to his ineligibility according to the Statute. Which upon Appeal was seen by the Court to have an apparent defect as to Equal Protection and as such Unconstitutional.

The Jurisdiction of the State Supreme Court on recent Motion for Ruling:

Brief history of the Superior Court Proceedings.

Upon the Appeal to the Superior Court from the Hearing and Finding and Award of the Commissioner.In September 10,1979.

1. Appellant had to overcome a Motion to Dismiss based on Untimely Filing.

a. Appellant had sent by Certified return Receipt mail the Appeal papers, on the seventh day of the ten day's alloted. (An unreasonable Practise Book Rule)

Due to an intervening weekend and a slow Clerical acceptance.It did not or was not filed until five day's later.Meaning Appellant was two day's over the ten day requirement. An understanding Judge waived the two day lateness as Appellant produced the Date of Mailing Certification. And expressed to the Court the oddity of how long it took to arrive compared to the average mailing from Springfield to Hartford,which is two day's.(twenty miles distance).

2. While the case was awiting assignment in accordance with the Rules of Procedure Appellant on October 16,1979 filed for Trial by Jury through a standard form provided for that purpose. On October 18,1979 Respondents Filed an Objection which was subject to a short calender Hearing. Practise Book Rules No.513 and 519,the first un-necessary(As the original Appeal Complaint and Brief is sufficient as to reasons.)the second (519) is Unconstitutional.

a. Appellant unaware then of the Violation's. Complied,presented a Reasons for Appeal,and changed the request for Jury Trial to by the Court.

3. When finally before a Judge for Assignment of Hearing Date when the Case was called Appellant replied "ready Your Honor" Respondents Objected and stated not ready as under the Practise Book Rules Appellant had to File in Administrative Appeals a Motion to Correct.

a. When the Judge,indicated Appellant could reply to the Objection,Appellant expressed to the Judge and the Court that the Issues were not confined to just a few Correction's,that it was instead a Collateral Attack on both the Hearing and the Commissioner's Finding and Award on all points. As a result no Motion for Correction was necessary.

The Judge then stated he would take the matter under advisement,and would later Rule on the Objection.

For the next four month's Appellant was told his whole File had been lost and could not be found.Appellant went to the District Attorney's Office and presented a Complaint.The District Attorney stated he could offer no help as the matter was a Civil Case where he had no Jurisdiction. But advised me to see the Chief Clerk who happened to have gotten the job recently as the Clerk of long standing had passed his Bar examination and had left for private practise.

Upon seeking out the Chief Clerk downstairs in the same building,Appellant explained his position and what had transpired.This gentleman had me wait in his office while he personally searched the vault in the basement or wherever about a half hour later he returned with Appellants File.After a perusal of the Appeal Complaint,in a non-commital fashion he offered that in essence Appellant would accomplish very little if anything.It still took several weeks before an opportunity to appear before the Court and the Hearing became a fact. Appellant went prepared for a Hearing but in fact upon arriving at the Court Room indicated on the Notice it was found to be again an acting Assignment Judge, who was once more indicate a Hearing Date. It had been presupposed that since so much time had elapsed due to their (Obstruction of Justice) negligence,the issue would have been formally assigned. The prior Judge who was or had taken the objection and reply under advisement was never seen again by Appellant. Instead at this re-assignment the Judge was Thomas Corrigan.Again when called Appellant stated he was ready and again Respondents presented the same Objection once more Appellant explained to the Judge and the Court his finding no need to file a Motion to Correct. (Appellant's logic was that if the Court sent the matter back to the Commissioner for Correction's he could do so and still leave standing his same Finding and Award,thusly leaving Appellant further out in the cold then he already was.) What Appellant sought was a Directive from the Court in it's Ruling for a Reversal of the Finding and Award and a preclusion of any further Hearing as Mandated by the Statutes and the Menzies Criteria.

Judge Thomas Corrigan,after Appellant had finished his explanation,stated that he would take the matter under advisement,appellant inquired as to how long that would take,he indicated it would be soon,Appellant explained that the last Judge who had taken it under advisement was never seen again and that his File had been lost for over four months. Judge Corrigan offered that if his soon were not sufficient perhaps Appellant would prefer the last Judge.A joke enjoyby everyone in the Court except Appellant. One month and a half later Appellant still without a scheduling(The Court has a Computerised listing) Appellant called the Judge in his chamber's and inquired about his status,he indicated a date

for the Hearing would be set two weeks later a Post card from the Court arrived establishing a Hearing date April 24,1980. After the short calender call the Clerk of the Court asked if there were anyone present and not called Appellant offered that his case was not on the list.Judge Corrigan expressed to the Clerk that his office had sent our call and that a Hearing would be held after the close of all other business.Respondent Attorney who was not present during the calls walked in and presented his appearence to the Clerk. The Judge was holding conference's in chamber's,Respondent Attorney and Appellant spoke with the Judge who asked if there were any Issues of the case to be presented that the Court was unaware of,there were none,after which we returned to the Court Room for the Hearing .Appellant filed a three page Brief with the Court and gave a copy of same to Respondent Attorney.Respondents filed no Brief but did introduce the Adzima Ruling for the first time quoting from the Law Journel in which it appeared. After hearing the Respondent's argue it's similarity to the instant matter. Appellant argued that Menzies upheld the Right to a Notice and that the case quoted by Respondent's had no similarity to the instant matter.

The flaws and defects of the Hearing and the Finding and Award were expressed to the Court as well as re-emphasizing that Adzima was totally different.

Awaiting Judge Corrigan's Ruling took another five months,the Ruling Affirmed the Commissioner,and stated that since Adzima proclaimed a Notice was necessary only upon initial claim Appellants contention as to Menzies and the Notice Provision were invalid.

Petition for Certification for Review was presented to the State Supreme Court who Denied Review on November 20,1980.

It can be noted by the Court that there was never any Ruling as to the Motion to Correct of the Practise Book,simply because seen in it's true guise it is an Administrative gimmick and has no Legal ground for it's existence. The fact that Appellant was right could have caused the malice of the lost file which had been alleged in the Federal Court to have been no less then an Obstruction of Justice

The Jurisdiction of the State Supreme Court on the recent Motion for Ruling Filed on November 24,1982:

In the State of Connecticut the Law on Fraud and Fraudulent Practise has a Statute of Limitations of two years from the time at which it first becomes known to the injured party. In the instant matter before the Court for Review the Record will show that Fraud was alleged in the Federal Court by Appellant in reference to the Conspiracy between the principal's Appellee's Employer-Insurer and the Attending Physician who first having stated correctly that Appellant was being seen for the same Work-Related injury,by way of the Company Ins-

surance Form which also served as an acceptable absence from the job.Did six-weeks later state to a Representative of the Insurer through a written reply that although all testing had not been completed he did not think Appellant's neck and back problems and severe headaches,as well as the other symptoms were work related to the accident and injury of some months prior.

It was only recently just prior to and during the preparation of the Motion for Ruling on the various Constitutional Violations,to the State Supreme Court that it became clear to Appellant that Fraud and Fraudulent Practise had taken place,(the Court bearing in mind that this was just a year after the Menzies Ruling had been handed down) through the deliberate Non-Compliance of the Statute Sec. 31-307b. (they could not have said then that they were contesting only extent of disability) and the futher Non-Compliance of Sec. 31-297b.

They also demonstrated further Fraudulent Practise by turning the Appellant-employee claim over to the Health Insurance Carrier,a Breach of Contract not only with Appellant-Employee but also with the State and it's representative the Workmen's Compensation Board.

Where the Appellant has presented to the State Supreme Court that he was illegally,unlawfully,and in Violation of the established Law,wrongfully compelled to be Ruled by a Law (Judicial)that was still five years away. Which is an Unconstitutional Act recognizable by any Court where Justice can be enforced and the Right's of a Citizen so injured be corrected.

Given the oppotunity as they were the State Supreme Court even if they did not have Jurisdiction,which they did,should have inquired into the facts and allegations and seeing they were factual should have moved to correct same as soon as humanly possible. For every Supreme Court State or U.S. has power's it can use for just such circumstances as the instant matter.

That Violation by the Superior Court took place in late 1980 it was not outside the Statute of Limitation's, if there were one for Violation's of Constitutional Right's.

Appellee's alleged the State Supreme Court had no Jurisdiction,and that in effect Appellant had no standing to be before the Court,showing as how Appellant had already been through the various State and Federal Court,implying that it meant he no longer had a Right to be heard on those same Issues.

Unawares perhaps that it is not how many Court's one has been in or sought to have his Right's recognized in,the Controlling factor is has proper Adjudication taken place and were there then or now Violation's of Constitutional Right's that have not been resolved.

The only State Court that had the power to overturn the Superior Court Ruling where an outstanding Violation exist's was the State Supreme Court,the very

reason Appellant presented his Motion for Ruling,to that Court,and with precise details so their could be no mistake as to the Constitutional Violation's that Appellant had been subjected to both by the Commissioner and the Superior Court through it's procedural system and the illegal Ruling by Judge Corrigan which as stated in the Motion for Ruling could have been no more then harmful error.

What causes the greater damage is the attempt to cover up,what is so transparent and corroborated by the Record under Velilla v. UTC/HAMILTON STANDARD DIVISION,No. 236582 at 2 (Super. Ct. Sept.9,1980) and cited by the Federal District Court in it's Rule 12 (b) (6) Dismissal. The Federal District Court quoting from the Ruling of Judge Corrigan states that the reliance by plaintiff on Sec. 31-297b, is inapplicable because of Adzima v.UAC/Norden Division,177 Conn. 107, 112-13 (1979). It is very clear that Adzima was used illegally.

Appellant,it can be noted by the Court was properly before the State Supreme Court offering an opportunity to have an Unlawful,and illegally arrived at Ruling corrected without further litigation or claim for damages.

As well as offering an opportunity to re-examine their Practise Book Rules which are Unconstitutional as to the Equal Protection of the Law's.

Especially the Denial of Right to Trial by Jury which offends both the Equal Protection and the Inviolate 7th Amendment of the Constitution.

The Adzima Ruling; Is in Conflict with and Infringes upon other Statutes:

1. Legislative Statute Sec. 31-307b, declares that upon a Relapse and Notice of same. Respondents, (insurer) must pay the weekly benefit to which a claimant is entitled to by Law.

2. The only (if) or exception is in reference to Sec. 31-308,it states that if a claimant was paid under that Statute during his prior disability,then he would again receive benefits under that (extent of disability) Statute instead of through the provision of Sec. 31-307b.

3. The Adzima Ruling,can be seen to Conflict,where it proclaims Respondents Employer-Insurer can disobey or ignore the Statute,they can Contest without a Notice and thusly not pay any Benefits as Sec. 31-307b clearly describes they should. If they do not have to contest then theoretically they do not have to advise the Commissioner;or employee of,1.The claim itself,2.They can refuse to pay until some later date,it takes 3 or 4 months on average for just an Informal Hearing,which is alway's required before a Formal Hearing can be scheduled, which could take again the same amount of time.3. A legitimate claimant could under the Adzima Criteria if he's lucky and either secures an Attorney or by presenting his claim directly to the Compensation Board,can look forward to the non-payment of any Benefits for the better part of a year.

The Statute Sec.31-307b. does not state anywhere that a Hearing must be held in order to see if you (the claimant) qualify for those Benefits.

It can be noted by the Court that from a further Review of Sec.31-297b the Adzima Ruling infringed upon both Sec.31-307b. and Sec.31-308. Unconstitutionally and in Violation of the Right to a Notice.

Understandably,on the surface the Adzima Ruling sounds good,but only as it was applicable to the exact conditions peculiar to that case which was rare.

The average Injured Worker returns to the Job,which means that upon a Relapse or while still on the Job he submits a claim for extent of disability the break-off of Liability having taken place,the claimant would be unaware of why and for what reason his claim was not being honored.Logic dictates to the injured worker that if he is paid benefits they have accepted Liability that if they do not pay or Notify in some manner that they are contesting,and have not accepted the Liability. The Break-off of returning to Work is the crucial factor which escaped those that were instrumental in the Adzima Ruling. Inadvertently they rendered ineligible to a Notice and to the protection of the above mentioned Statutes a large segment of otherwise legitimate claimants. Creating an Infringement and Conflict of the Statutes as above noted.

In the instant matter before the Court; Was the Continuity of accepted Liability a reality as it was in Adzima?

Most emphatically,it was not.

The break-off of return to work dissolves the continuity,specifically; Upon a Relapse of the Injury,original benefits have to once again be provided,and as in intial claim there is a presumed liability,which must first be accepted the proof of which is through payment of continuing benefits and medicals.

If they Respondents accept that liability and pay the weekly benefits then and only then can the claimant file for further benefits under Sec.31-308 the extent of disability provision.

The Adzima Ruling destroy's the Right's of Claimant's to a Notice Provision and infringes on the express language of the other Statutes as above shown unlawfully,illegally,and is Unconstitutional,as to the Equal Protection clauses of the 14th Amendment of the U.S. Constitution.

THE UNITED STATES SUPREME COURT
TRADITION

Appellant is aware that by tradition the U.S.Supreme Court if it can avoid the major Constitutional Issues in it's Ruling Directive will do so. Which would be in the instant matter,using the open and shut fact that the Governing LAW of the Case was the Menzies Ruling. Establishing harmful error by the Superior

Court Ruling of September 9, 1980.Which improperly and illegally used the Adzima Ruling as the criteria,instead of the Governing Law of the Case which was the prior Menzies Ruling. And even if the Adzima Ruling were to be apt there would still exist Error for in the Instant matter as indicated by the record Liability had not been accepted upon Notice of claim for Relapse Benefit's which are for continuing benefits and not extent of disability.

In order for Adzima to be applicable Respondent-Appellee's (Employer-Insurer) would have had to have paid the Relapse Benefits as the Statute requires,and by so doing prove thusly that Liability had indeed been accepted.

The Legislative Law of Sec. 31-307b would have to be re-written in order to squeeze the continuing benefit as one for extent of disability.

THE JURISDICTION OF THE SUPREME COURT IN THE INSTANT MATTER

This United States Supreme Court has Original Jurisdiction under U.S.C.A Title 28 1251. Where the Appellant is a Citizen of the State of Massachusetts and has been Fraudulently abused by private parties and through improper and illegal violations of his rights by Administrative,and Judicial Findings and Ruling's in the State of Connecticut. That Statutes, Rules, and Law's(Judicial, State Supreme Court) are in fact Violative of Appellant's Constitutional Right to the Equal Protection of the Law's of the 14th Amendment of the U.S. Constitution.

That U.S.C.A Title 28 1343 at (3) also provides Jurisdiction to this Supreme Court, with authorization of Law,being derived from Title 28 1251 and the 14th Amendment of the U.S. Constitution.

To redress the Deprivation's under color of State Law's that Appellant has been subjected to illegally. And in Violation of Due Process Rights.

The Inviolate Right to Trial by Jury as proclaimed in the 7th Amendment of the U.S. Constitution and through long established Legal Precedent. Was Denied to Appellant by State Practise Book Rules that are in conflict with the U.S. Constitution as described above and throughout this Jurisdictional Statement.

Where the Right's of it's Citizen's are in jeopardy,even if the Reviewing Court had insufficient Jurisdictional Authority it could use the broad power's granted by the Congress,to assume it's Jurisdiction and thereby grant relief to the violated Citizen. To the average American Citizen of whatever ancestral background,race or hue. The concept of true Justice being a reality is due to the fact,that the Supreme Court is the Final Protector of their Right's. It is where the powerless have as much Right's as the monied mighty. It is where Adjudication,can be had free from political influence and favors. The symbol of

a workable Democracy less then perfect but constantly striving to achieve the best of all possible worlds,through the upholding of the Law's and the Constitution.

Appellant, has presented in this Jurisdictional Statement to the Court,all the Fact's as they took place,and corroborated by the evidence and the Record, sufficient for plenary consideration and review.

The Federal Question's are based on Violation's of the 7th and 14th Amendment the Authority by which is activated U.S.C.A. Title 28 1343 at (3) for usage as both federal question and to bolster Jurisdiction were it needed.

The Issues involved have been shown from as many diverse angles as possible, as would take place in a Trial by Jury in order that every position be understood in it's original time frame,by this body of pre-eminent Jurist's.

Much more could be added but for the sake of brevity what has been presented will have to suffice.

The Legal Precedent's also have been kept to a minimum,bearing in mind that the Court has more then adequate knowledge of prior Decisions in related matters,as to Jurisdiction and the Law,as well as from other Court's and Forums.

The Brief on the Merit's and upon Oral arguement will include some of the many Legal Precedent's that have been established by this and other Court's.

The Relief sought(bearing in mind the Court's long standing tradition) is this Court's Directive to either the State Supreme Court or the Superior Court as the wrongful Adjudication and Ruling emanated from there, or to both,however the Court normally handles similar matters.

The entitlement of Appellant to his Right's under the Compensation Statutes of the State of Connecticut,will prevent any further harmful violation's to take place against Appellant's person.

That retro-active entitlement,plus interest,in itself is woefully inadequate, considering the deprivation of so many years,and the suffering that has been a part of the struggle for recognition of Appellants Right's.

But it will have to do,as the pursuing of one's Right's in Court litigations are terrible ordeal's,and to stressful for Appellant whose health is fragile and precarious. Appellant functions strictly on the strength of will power,to do whatever has to be done Legally,in order that the Constitutional Right to the Equal Protection of the Law's be properly observed.

Under Constitutional Law:

II. Construction,Operation,and Enforcement of Constitutional Provisions.:

The Federal District Court of Virginia; Ruled in a 1982 case that any State Law (Adsime Ruling) that permits a person to violate Constitutional Right of another is void. And that inability of State Statute or State Officials through

lack of Power to alleviate those Constitutional wrongs,cannot excuse the actions or omissions by those Officials (State Supreme Court) in perpetrating those wrongs. Applicable also to the above is the State Practise Book Rules,the Denial of Right to Trial by Jury,the Denial of Direct Review by the State Supreme Court where the issues stem from Administrative Forums. The Violation of the Right to a Notice Provision the essence of Due Process. (Adzima Ruling).

The Federal District Court of Virginia Ruling:

CASE CITED:

> " D.C. Va.1982. Any state law that permits a person to violate constitutional right of another is void,and fact that state statute fails to grant power to state officials to alleviate constitutional wrongs cannot excuse the actions or omissions of that official in perpetrating the wrong...Gross v. Tazewell County Jail,533 F.Supp. 413."

Under the Workmen's Compensation Statutes of the State of Connecticut;Subsection 102 c.457. States: "Law in force at time of injury governs."

Which indicates that the Menzies Ruling was the Criteria for the instant matter and the using of Adzima was in violation of Appellants Right's along with providing a further conflict of the Statutes and Law's illegally.

What was expressed by the Federal District Court of Virginia as above shown is not new ground very much the same was stated by the Court's over thirty years ago,and perhaps even further back.

Appellant has indicated to the Court the Relief sought upon the closing of the Juridictional Statement and return's. Were the Court to Order a Summary Disposition on the Merit's. Appellant is also amenable to a Hearing and Oral Arguement on the Merit's before the Court.

CONCLUSION

WHEREFORE:

Appellant,respectfully requests that upon Summary Disposition on the Merit's the relief sought be granted.

Or in the alternative,that Jurisdiction and a Hearing on the Merit's be granted as is provided by the established law.

Respectfully Submitted By

Gilbert G. Velilla

GILBERT G. VELILLA
719 Belmont Ave.
Spfld. Mass. 01108
Tel.(413) 736-1682

APPELLANT-PRO SE

DATED: February 14, 1982

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1982

No._____

RECEIVED
FEB 17 1983
OFFICE OF THE CLERK
SUPREME COURT, U.S.

GILBERT G. VELILLA

VS.

UTC/HAMILTON STANDARD DIVISION ET AL

STATE OF CONNECTICUT ET AL

CIVIL CASE: APPEAL

ORIGINAL JURISDICTION

U.S.C.A. TITLE 28 1251

INDEX OF APPENDIX ON APPEAL

	DOCUMENT NO.
Copy of Motion for Ruling (State Supreme Court).....	A
Copy of Order Dismissing above Motion	B
Copy of Motion for Reconsideration (StateSupreme Court)	C
Copy of Order of Denied on above Motion	D
Copy of Certificate of Service and of Appeal Notice (as one unit)	E
Copy of Attending Physician's First Report of Injury	1.
Copy of Attending Physician's (Office visitations by Appellant).	2.
Copy of Letter (sent by Insurer to Attending Physician)	3.
Copy of Appeal to the State of Conn. Superior Court	4.
Copy of Claim to Trial by Jury and Objection to same under Rules.	5.
Copy of Petition for Certification (State Supreme Court).....	6.
Copy of Finding and Award by Compensation Commissioner	7.
Copy of Workmen's Compensation Statutes (two pages)	8.
Copy of State of Conn. Supreme Court(Adzima Ruling)	9.
Copy of State of Conn. Supreme Court (Menzies Ruling)	10.
Copy of Order of Denied (Nov. 20,1980) by State Supreme Court ..	11.
Copy of Order(for I.D. purposes)of Second Circuit (Ct. Appeals).	12.

Portions of Appx.
on file in Clerk's
office

NO.

GILBERT G. VELILLA : SUPREME COURT

V. : STATE OF CONNECTICUT

U.T.C/HAMILTON STANDARD DIVISION : DECEMBER 21, 1982
LIBERTY MUTUAL INSURANCE COMPANY
WORKMEN'S COMPENSATION COMMISSIONER,ET AL.

ORDER

THE PETITIONER'S MOTION FOR FILING

HAVING BEEN PRESENTED TO THE COURT, IT IS HEREBY ORDERED DISMISSED.

BY THE COURT

Donna H. Darling

CHIEF CLERK

Notice to:
Gilbert G. Velilla
John R. FitzGerald
Thomas P. Clifford,III,A.A.G.
Clerk, Hartford J.D.
12-22-82

NO. 2[illegible]

GILBERT G. VELILLA

V.

U.T.C./ HAMILTON STANDARD DIVISION
LIBERTY MUTUAL INSURANCE COMPANY, ET AL.

: SUPREME COURT
: STATE OF CONNECTICUT
: JANUARY 7, 1983

ORDER

THE PLAINTIFF'S MOTION FOR RECONSIDERATION

HAVING BEEN PRESENTED TO THE COURT, IT IS HEREBY ORDERED DENIED.

BY THE COURT

Donna H. Darling

CHIEF CLERK

Notice to:
Gilbert G. Velilla
John R. Fitzgerald
Thomas Clifford, A.A.G.
Clerk, Hartford J.D.
JANUARY 12, 1983

Doc. 20
E

STATE OF CONNECTICUT

SUPREME COURT

HARTFORD COUNTY AT HARTFORD, CONNECTICUT

CERTIFICATE OF SERVICE

I,Gilbert G. Velilla do,hereby certify that on January 19, 1983 a copy of Notice of Appeal was sent to John R.FitzGerald Esq. whose address is 237 Buckingham Street,P.O.Box 6896 Station A Hartford,Conn. 06106. Attorney's for U.T.C./Hamilton Standard and Liberty Mutual Ins. Co. By First Class Certified Mail.

A copy of Notice of Appeal was also sent to Thomas P. Clifford III, Assistent Attorney General whose address is P.O. Box 120 Hartford, Conn. 06101 and whom represent the Worker's Compensation Commissioner and the State of Conn.

On January 19, 1983. By First Class Certified Mail.

A copy also will be given in hand on the same above date to the Clerk of the Superior Court the possessor's of the Record from which the instant matter originally derived from. Docket Ref. NO. 236582

GILBERT G. VELILLA
719 Belmont Ave.
Spfld. Mass. 01108
Tel.(413) 736-1682

APPELLANT PRO SE

DATED: JANUARY 19, 1983

DONALD W. DOWLING
CHIEF CLERK
SUPREME COURT
JAN 19 11 41 AM '83
STATION A
HARTFORD, CT 06106

Doc. no. E

STATE OF CONNECTICUT

SUPREME COURT

HARTFORD COUNTY AT HARTFORD, CONNECTICUT

NOTICE OF APPEAL

Notice is hereby given that,GILBERT G. VELILLA,APPEALANT,APPEALS, to the UNITED STATES SUPREME COURT, from an ORDER of DISSMISSAL,upon an MOTION FOR RULING, and an ORDER of DENIED,upon an MOTION FOR RECONSIDERATION. By the State Supreme Court. Motion for Ruling Dismissed on December 21, 1982,Motion for Reconsideration,Denied on January 7, 1983. Both Order's received by Appellant three and five day's later repectively,from date of Order.

This Appeal is taken under U.S.C.A. TITLE 28 1251. Granting Original Jurisdiction to the UNITED STATES SUPREME COURT,in cases where a State is a party either nominally or substantially.

That where the Issues involved are allegations of State Statutes,and Rules of Practise being Unconstitutional. Deprivation of Due Process of Law, and an allegation that a Superior Court Ruling,citing a 1979 Supreme Court Ruling and used against Appellant,was UNlawful,Illegal,and Unconstitutional.

The Supreme Court of the United States has Original Jurisdiction.

GILBERT G. VELILLA
719 Belmont Ave.
Spfld. Mass. 01108
Tel.(413)736-1682

APPELLANT-PRO SE

DATED: JANUARY 19, 1983

GILBERT VELILLA : CONT'
719 Belmont Avenue
Springfield, Mass. 01108
CLAIMANT :

vs.

UTC/Hamilton Standard Division : WORKMEN'S COMPENSATION
Hamilton Road COMMISSIONER
Windsor Locks, Conn. HON. A. PAUL BERTE
EMPLOYER

LIBERTY MUTUAL INSURANCE COMPANY:
809 Main St.
East Hartford, Connecticut
RESPONDENTS : August 28, 1979

Appearances:

Attorneys Seymour Tillman and John Liebel, 175 State Street, Springfield, Massachusetts, appeared for the Claimant.

Attorney George Downing, 809 Main Street, East Hartford, Connecticut, appeared for the Respondents.

FINDING AND AWARD

Pursuant to statutory notice a Formal Hearing on the above-entitled matter was held by the undersigned at his office in Hartford on July 30, 1979.

The following facts are found:

1. The Claimant and Respondent employer had a contract of employment on and before August 23, 1974, both being subject to the Workmen's Compensation Act of Connecticut, as amended, and the Respondent employer legally insured its compensation liability with the Respondent insurer. Claimant worked for the Employer as a spot welder.

2. The Claimant claimed that on August 23, 1974, he sustained at the Employer's Windsor Locks plant compensable injuries to his back, arms, neck and head as a result of a fall.

He further claimed that on November 1, 1974, he suffered a relapse from his injuries, and that he has been totally incapacitated due to said injuries from November 1, 1974, to the present with the exception of approximately three weeks he worked in February, 1975. He claimed Workmen's Compensation benefits for total incapacity and related medical expenses.

3. The Respondents accepted liability for injury sustained by the Claimant on August 23, 1974, to his left arm and shoulder, for which they paid compensation for temporary total incapacity until Claimant returned to work on September 3, 1974. The Respondents contend they have paid all the compensation benefits due the Claimant for his injury sustained August 23, 1974, and deny the claim for any benefits after September 3, 1974.

4. About 2 a.m., on the morning of August 23, 1974, Claimant was performing his usual duties at his spot welding machine. In the process of setting a fixture and tightening it with an allen wrench, the allen wrench broke and Claimant fell from his chair onto the floor. He broke his fall with his left arm, and injured his left arm and shoulder as a result of the fall.

5. He continued to work for an hour or so but was unable to complete his shift. Later in the morning on August 23, Claimant saw Dr. Melvin Warhaftig, a general practitioner, now deceased, whose office was located a few blocks from the plant.

6. Claimant treated with Dr. Warhaftig on August 27 and August 29, when he was discharged by the doctor and certified able to return to work the evening of September 2, 1974. Claimant was temporarily totally incapacitated from work due to the injury he sustained on August 23, 1974, from August 23, to September 3, 1974, when he returned to work.

7. Claimant worked at his regular duties until November 1, 1974, after which he was out of work and received medical treatment for complaints and problems unrelated to the injuries he sustained on August 23, 1974.

8. Upon review of all the evidence before me, I CONCLUDE AND FIND that the Claimant sustained compensable injuries to his left arm and shoulder on August 23, 1974, as admitted by the Respondents in Paragraph 3 above, which disabled him from August 23, to September 3, 1974, and for which period compensation benefits have been paid.

I FURTHER FIND that the Claimant has not sustained his burden of proving his claim for compensation benefits as claimed in Paragraph 2 above, and accordingly that claim must be, and is DISMISSED.

The Respondents' contentions set forth in Paragraph 3 above are SUSTAINED.

WHEREFORE, IT IS ADJUDGED, DECREED, ORDERED AND AWARDED, ACCORDINGLY.

A. Paul Berté

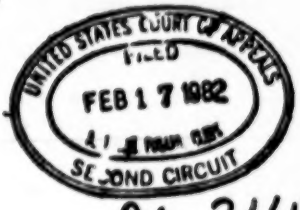
A. PAUL BERTÉ
Workmen's Compensation Commissioner
First District

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

At a Stated Term of the United States Court of Appeals, in and for the Second Circuit, held at the United States Court House, in the City of New York, on the 17th day of February one thousand nine hundred and eighty-two.

Present:
Hon. James L. Oakes,
Hon. Jon O. Newman,
Circuit Judges.
Hon. Charles S. Haight,
District Judge.



81-7458

Gilbert G. Velilla,
Plaintiff-Appellant,

v.

81-7458

UTC/Hamilton Standard Division,
Liberty Mutual Insurance Company,
Workmen's Compensation Commission,
Defendants-Appellees.

O R D E R

This is an appeal from a judgment of the United States District Court for the District of Connecticut, T. Emmet Clarie, Chief Judge, dismissing appellant's complaint for failure to state a claim upon which relief could be granted, Fed. R. Civ. P. 12(b)(6). We affirm.

Appellant, rebuffed in his claim for additional workmen's compensation benefits by the Workmen's Compensation Commission, the Connecticut Superior Court, and the Connecticut Supreme Court, filed this action in district court. In reviewing the district court's dismissal of that complaint, we have in mind that pro se pleadings are to be liberally construed, Haines v. Kerner, 404 U.S. 519, 520-21 (1972), that the complaint is to be construed in the light most favorable to the plaintiff, Scheuer v. Rhodes, 416 U.S. 232, 236 (1974), and that dismissal is appropriate only if the plaintiff can prove no set of facts in support of his claim which entitles him to relief, Conley v. Gibson, 355 U.S. 41, 45 (1957). We also have in mind that rule 12(b)(6) must be read in conjunction with rule 8(a), which requires "a short and plain

N.B. Since this statement does not constitute a formal opinion of this court and is not uniformly available to all parties, it shall not be reported, cited or otherwise used in unrelated cases before this or any other court.

statement of the claim showing that the pleader is entitled to relief." See Wright & Miller, Federal Practice & Procedure: Civil § 1356 at 590 (1969).

The district court properly dismissed appellant's claim that the appellees violated the notice requirement of Conn. Gen. Stat. § 31-297(b). That provision requires an employer contesting a claimant's entitlement to compensation to file a notice that the right to compensation is contested within twenty days of the employer's receipt of a written notice of claim. Here, however, the employer did not contest the occurrence of a compensable injury but only the extent of appellant's disability. The statute thus is not applicable, see Adzima v. UAC/Norden Division, 411 A.2d 924, 177 Conn. 107 (1979). Appellant's constitutional challenge to the Adzima court's quite logical interpretation of the statute is meritless.

The district court also properly dismissed appellant's claim that his due process and equal protection rights were violated by the Commissioner's refusal to admit certain medical reports into evidence. This claim does not rise to the level of a constitutional deprivation and, furthermore, it is not the role of a federal court to provide a forum for relitigation of the Commissioner's evidentiary rulings. See Wood v. Strickland, 420 U.S. 308, 326 (1975).

Finally, the district court's dismissal of appellant's claim that appellees engaged in a conspiracy against him was proper. The allegations of a conspiracy are presented in a vague and conclusory manner and are unsupported by facts indicating the deprivation of any constitutional right. See Ostrer v. Avonwald, 567 F.2d 551, 553 (2d Cir. 1977); Koch v. Yunich, 533 F.2d 80, 85 (2d Cir. 1976).

Judgment affirmed.

Circuit Judges.

District Judge.

82-6249

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Office-Supreme Court, U.S.
FILED
MAR 18 1983
ALEXANDER L. STEVAS,
CLERK

82-6249

NO. 236582

IN THE SUPREME COURT OF THE UNITED STATES

IN RE:
GILBERT G. VELILLA
Appellant
VS.
U.T.C./HAMILTON STANDARD DIVISION,
LIBERTY MUTUAL INSURANCE COMPANY,
WORKERS' COMPENSATION COMMISSIONER,
ET AL
Appellees

MARCH 14, 1983

MOTION TO DISMISS OR AFFIRM

John R. FitzGerald
Howard, Kohn, Sprague & FitzGerald
Attorney For Appelees
U.T.C. Hamilton Standard Division
Liberty Mutual Insurance Company
237 Buckingham Street
Hartford, CT 06106
(203) 525-3101

NO. 236582

IN THE SUPREME COURT OF THE UNITED STATES

IN RE:	)
GILBERT G. VELILLA	)
Appellant	)
VS.	)
U.T.C./HAMILTON STANDARD DIVISION,	)
LIBERTY MUTUAL INSURANCE COMPANY,	)
WORKERS' COMPENSATION COMMISSIONER,	)
ET AL	)
Appellees	)

MARCH 14, 1983

MOTION TO DISMISS OR AFFIRM

Pursuant to the Supreme Court Rules 16 and 46(5), the appellees, UTC/Hamilton Standard Division and Liberty Mutual Insurance Company hereby respectfully request that this Court either dismiss the appeal of appellant, Gilbert G. Velilla or affirm the decision of the Supreme Court of the State of Connecticut.

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STATEMENT OF THE ISSUES

1. Issue re Motion to Dismiss
   Does the United States Supreme Court have jurisdiction over this appeal pursuant to either 28 USC Section 1251 or 28 USC Section 1343(3) as espoused by appellant in his jurisdictional statement?

2. Issue re Motion to Affirm
   Did the Connecticut Supreme Court err in dismissing appellant's Motion for Ruling?

Statement of the Case

Appellant was injured on August 23, 1974 during the course of his employment and he was out of work ten (10) days during which time he received Workers' Compensation payments pursuant to the Workers' Compensation Act of the State of Connecticut. Subsequent to that time, appellant developed medical complaints which he claimed were related to his August 23, 1974 injury.

In a formal compensation hearing held on July 30, 1979, at which appellant was represented by counsel, the Workers' Compensation Commissioner found the subsequent complaint to be unrelated to his 1974 injury and denied an award of further compensation. Appellant appealed the Commissioner's decision to the Superior Court of the State of Connecticut, which Court denied his appeal. Appellant then filed a Petition for Certiorari with the Supreme Court of the State of Connecticut which was denied on November 20, 1980.

In January of 1981, appellant commenced an action in the United States District Court of the State of Connecticut, alleging that the laws of the State of Connecticut and the actions of the Connecticut Courts and Workers' Compensation Division denied him of his Constitutional and civil rights. By ruling dated June 12, 1981 in the United States District Court, Clarie, J., dismissed appellant's complaint because it failed to state a claim upon which relief could be granted. Appellant then appealed to the Second Circuit Court of Appeals, which Court affirmed the ruling of Judge Clarie. Appellant next petitioned to the Court of Appeals for hearing en banc which petition was denied.

Appellant next filed a Petition for a Writ of Mandamus in the United States Supreme Court. Said Petition for a Writ of Mandamus was denied on October 4, 1982. Appellant then filed a Petition for Rehearing in the United States Supreme Court which Petition was

denied on November 15, 1982. Appellant also petitioned for Certiorari but said Petition was returned because it was not timely filed.

Immediately subsequent to said denials by the United States Supreme Court, appellant filed a Motion for Ruling with the Supreme Court of the State of Connecticut. Appellee requested that the Connecticut Supreme Court dismiss said Motion for Ruling on the ground that appellant's case was not presently pending before the Supreme Court of the State of Connecticut or any other Court in the State of Connecticut. Said Motion was dismissed by the Supreme Court of the State of Connecticut on December 21, 1982.

Appellant next filed a Motion for Reconsideration. Appellee objected to said Motion on the ground that since the Supreme Court did not have jurisdiction over the original Motion for Ruling it could not consider plaintiff's Motion for Reconsideration. Accordingly, said Motion for Reconsideration was denied on January 7, 1983.

Summary of the Argument

This Court does not have jurisdiction over the present matter pursuant to 28 USC Section 1251 or 28 USC Section 1343 as claimed by the appellant as neither one of those Statutes confers appellate jurisdiction upon the Supreme Court. Furthermore, this Court does not have jurisdiction over the present matter pursuant to 28 USC Section 1257 because the decision of the Court below did not involve any question of Federal Law.

To the extent this Court may choose to exercise jurisdiction over this case, the decision of the Supreme Court of the State of Connecticut should be affirmed because a State Appellate Court does not have power to hear a Motion on a case which is not pending in the Court system of that State.

ARGUMENT

I. The Supreme Court does not have jurisdiction over this appeal and said appeal should be dismissed.

Appellant is appealing directly from a Motion for Ruling which was dismissed by the Connecticut Supreme Court and from a denial of his Motion for Reconsideration of that dismissal. Appellant claims that the United States Supreme Court has jurisdiction over this appeal by virtue of 28 USC Section 1251 and 28 USC Section 1343(3). Appellant's Jurisdictional Statement at Page 18. Clearly, this Court has jurisdiction under neither of these provisions. 28 USC Section 1251 provides:

> ORIGINAL JURISDICTION
> (a) The Supreme Court shall have original and exclusive jurisdiction of:
> (1) All controversies between two or more States;
> (2) All actions or proceedings against ambassadors or other public ministers of foreign states or their domestics or domestic servants, not inconsistent with the law of nations.
> (b) The Supreme Court shall have original but not exclusive jurisdiction of:
> (1) All actions or proceedings brought by ambassadors or other public ministers of foreign states or to which consuls or vice consuls of foreign states are parties;
> (2) All controversies between the United States and a State;
> (3) All actions or proceedings by a State against the citizens of another State or against aliens.

This statute confers original jurisdiction upon the Supreme Court not appellate jurisdiction, and thus does not apply to this case. Even if it did, the State is not, and never has been, a plaintiff in the underlying action. Thus, Section 1251 does not provide this Court with jurisdiction over the present appeal.

28 USC Section 1343 does not even apply to the issue of jurisdiction of the United States Supreme Court. It applies to the jurisdiction of the District Court and thus does not provide the Supreme Court with jurisdiction over this appeal.

To the extent that 28 USC Section 1257 may apply, it is clear that the only issue on appeal is whether the Connecticut Supreme Court's dismissal of appellant's Motion for Ruling was in error. As will be explained, that decision did not present any Federal question.

As can be seen from the history of the present case, this case has been pursued through the State Court system, culminating in the Connecticut Supreme Court's denial of Certiorari on November 20, 1980 and then through the Federal Court system culminating in the United States Supreme Court's denial of a Petition for Rehearing on November 15, 1982.

Subsequent to the denial of Certiorari and subsequent to the denial of the Petition for Rehearing by this Court, appellant filed a Motion for Ruling in the Connecticut Supreme Court essentially asking it to reconsider the entire case. Appellees, UTC/Hamilton Standard Division and Liberty Mutual Insurance Company, moved that the Motion for Ruling be dismissed because:

> "The appellant's case is not presently before the Supreme Court of the State of Connecticut, or any other Court in the State of Connecticut. The case has already been fully litigated in the State Court system, which litigation culminated in the denial of the Petition for Certiorari filed by appellant. Therefore, this Court does not have jurisdiction to hear this Motion for Ruling and said Motion should be dismissed." Motion 3098 Compliance - Response to "Appellants" Motion for Ruling Dated November 24, 1982. (A copy of which Motion is attached hereto and marked Exhibit A).

The Connecticut Supreme Court, without opinion, dismissed the Motion for Ruling. Appellant then requested reconsideration which appellees opposed for the reason that the Court was without jurisdiction to entertain the motion. Accordingly, the Motion was denied.

Clearly, the Connecticut Supreme Court dismissed the Motion for Ruling because there was no case involving the parties pending

in the State Court system. Appellant was essentially trying to commence, by Motion, an action at the Supreme Court level. The Connecticut Supreme Court's decision did not involve any question of federal law and this Court thus does not have jurisdiction over this appeal pursuant to 28 USC Section 1257.

II. If the Supreme Court exercises jurisdiction over this case then the decision of the Connecticut Supreme Court must nevertheless, be affirmed.

As explained above, the Connecticut Supreme Court dismissed the Motion for Ruling because there was no case pending in the State Court system from which the Motion could be brought.[1] In said Motion, Mr. Velilla referred to himself as "appellant" and the Connecticut Supreme Court obviously treated said Motion as an appellate Motion. Obviously, an appeal cannot be brought from a case which is not pending in the lower Court system and said dismissal was properly granted.

1. A Motion for Ruling is not a Motion addressed or in any way referred to in the Connecticut Practice Book.

CONCLUSION

This Court does not have jurisdiction over this appeal pursuant to 28 USC Section 1251 because said Statute does not confer appellate jurisdiction upon the Supreme Court, and even if it did the case meets none of the jurisdictional criteria set forth therein.

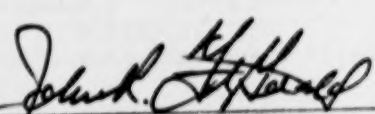
This Court does not have jurisdiction over this appeal pursuant to 28 USC Section 1343 because said Statute applies to the jurisdiction of the District Court and not of the Supreme Court.

This Court does not have jurisdiction over this appeal pursuant to 28 USC Section 1257 because the decision of the Court below did not involve any question of Federal Law.

To the extent that this Court may choose to exercise jurisdiction over this case, the decision of the Connecticut Supreme Court must be affirmed because an Appellate Court does not have power to hear a Motion from a case which is not pending in its lower Court system.

WHEREFORE, appellees, UTC/Hamilton Standard Division, Liberty Mutual Insurance Company, respectfully request that this Court dismiss this appeal or affirm the decision of the Supreme Court of the State of Connecticut.

DEFENDANT, UTC/HAMILTON STANDARD DIVISION, AND LIBERTY MUTUAL INSURANCE COMPANY,

BY 

John R. FitzGerald of
Howard, Kohn, Sprague & FitzGerald
237 Buckingham Street
Hartford, CT 06106

NO. 826249

IN THE SUPREME COURT OF THE UNITED STATES

IN RE:	)
GILBERT G. VELILLA	)
Appellant	)
VS.	)
U.T.C./HAMILTON STANDARD DIVISION,	)
LIBERTY MUTUAL INSURANCE COMPANY,	)
WORKERS' COMPENSATION COMMISSIONER,	)
ET AL	)
Appellees	)

MARCH 14, 1983

CERTIFICATE OF SERVICE

I, John R. FitzGerald, a member of the bar of the Supreme Court of the United States and counsel for UTC/Hamilton Standard Division and Liberty Mutual Insurance Company, appellees, hereby certify that on March 14, 1983, and pursuant to Rule 28, Rules of the Supreme Court, I served one copy of the attached Motion to Dismiss or Affirm on each of the parties herein as follows:

On March 14, 1983 to Appellant, Gilbert G. Velilla by depositing such copy in the U. S. Post Office, Hartford, Connecticut, with first class postage prepaid, properly addressed to the post office address of the above named at 719 Belmont Avenue, Springfield, MA 01108; and

On March 14, 1983 to Thomas Clifford, III, Esquire, Assistant Attorney General for the State of Connecticut, attorneys for respondent, Workers' Compensation Commissioner by depositing such copy in the U. S. Post Office, Hartford, Connecticut, with first class postage prepaid, properly addressed to the above named at 30 Trinity Street, Hartford, Connecticut 06103.

All parties required to be served have been served.

Dated: March 14, 1983

John R. FitzGerald of
Howard, Kohn, Sprague & FitzGerald

NO: 236582

SUPREME COURT

GILBERT G. VELILLA

JUDICIAL DISTRICT OF HARTFORD/NEW BRITAIN

VS.

AT HARTFORD

U.T.C./HAMILTON STANDARD DIVISION
LIBERTY MUTUAL INSURANCE COMPANY
WORKMEN'S COMPENSATION COMMISSIONER
ET AL

DECEMBER 10, 1982

MOTION 3098 COMPLIANCE - RESPONSE TO "APPELLANT'S" MOTION FOR RULING DATED NOVEMBER 24, 1982

BRIEF HISTORY OF THE CASE:

Appellant was injured on August 23, 1974 during the course of his employment and was out of work ten days during which time he received workmen's compensation payments pursuant to the Workmen's Compensation Act of the State of Connecticut. Subsequent to this time, appellant developed medical complaints which he claimed were related to his August 23, 1974 injury. In a formal compensation hearing held on July 30, 1979, at which appellant was represented by counsel, the workmen's compensation commissioner found his subsequent complaints to be unrelated to his 1974 injury and denied an award of further compensation. Appellant appealed the commissioner's decision to the Superior Court of the State of Connecticut, which court denied his appeal. Appellant then filed a Petition for Certiorari with the Supreme Court of the State of

Connecticut, which was denied on November 20, 1980. In January of 1981, appellant commenced action in the United States District Court of the State of Connecticut, alleging that the laws of the State of Connecticut and the actions of the Connecticut courts and workmen's compensation division denied him of his constitutional civil rights. By ruling dated June 12, 1981, the U. S. District Court, District of Connecticut, Clarie, J., dismissed appellant's complaint because it failed to state a claim upon which relief could be granted. Appellant then appealed to the Second Circuit Court of Appeals which court affirmed the ruling of Judge Clarie. Appellant next petitioned the Court of Appeals for a hearing em banc which petition was denied.

Appellant next filed a petition for a writ of mandamus in the United States Supreme Court. Said petition for a writ of mandamus was denied on October 4, 1982. Appellant next filed a petition for rehearing in the United States Supreme Court which petition was denied on November 15, 1982.

Immediately subsequent to said denial by the United States Supreme Court, appellant filed this Motion for Ruling.

HOWARD, KOHN, SPRAGUE & FITZGERALD • ATTORNEYS AT LAW
237 BUCKINGHAM STREET • P O BOX 6278 STATION A • HARTFORD CT 06106 • (203) 525 3101 • JURIS NO 28160

STATEMENT OF THE SPECIFIC FACTS ON WHICH THE OPPOSING PARTY RELIES.

Appellant was injured on August 23, 1974 and followed the appropriate legal channels through the workmen's compensation division of the Superior Court and the Supreme Court of the State of Connecticut. The Supreme Court of the State of Connecticut denied appellant's Petition for Certiorari on November 20, 1980.

LEGAL GROUNDS RELIED UPON.

The appellant's case is not presently before the Supreme Court of the State of Connecticut, or any other court in the State of Connecticut. The case has already been fully litigated in the State court system, which litigation culminated in a denial of the Petition for Certiorari filed by the appellant. Therefore this court does not have jurisdiction to hear this Motion for Ruling and said motion should be dismissed.

WHEREFORE appellees, U.T.C. Hamilton Standard Division and Liberty Mutual Insurance Company respectfully request that the

appellant's Motion for Ruling be dismissed for lack of jurisdiction.

APPELLEES
U.T.C. HAMILTON STANDARD DIVISION
LIBERTY MUTUAL INSURANCE CO.

BY _____
Richard S. Bartlett
Howard, Kohn, Sprague & FitzGerald
Their Attorneys

CERTIFICATION

I hereby certify that a copy of the above was mailed on the above date pursuant to pro se parties of record.

_____
Richard S. Bartlett
Howard, Kohn, Sprague & FitzGerald

HOWARD, KOHN, SPRAGUE & FITZGERALD • ATTORNEYS AT LAW
237 BUCKINGHAM STREET • P O BOX 6278 STATION A • HARTFORD CT 06106 • (203) 525 3101 • JURIS NO 28160

82-6249

NO. ~~236582~~

IN RE:
GILBERT G. VELILLA,

APPELLANT

vs.

U.T.C./HAMILTON STANDARD DIVISION,
LIBERTY MUTUAL INSURANCE CO.,
WORKERS' COMPENSATION COMMISSIONER,
et al.

APPELLEES

APRIL 7, 1983

MOTION TO DISMISS OR AFFIRM

Pursuant to the Supreme Court Rules 16 and 45(5), the appellee, State of Connecticut Workers' Compensation Commissioner, hereby respectfully requests that this Court either dismiss the appeal of appellant, Gilbert G. Velilla, or affirm the decision of the Supreme Court of the State of Connecticut.

Appellee joins in the memorandum of law filed by appellees U.T.C./Hamilton Standard Division and Liberty Mutual Insurance Company dated March 14, 1983, in support of said motion.

DEFENDANT,
WORKERS COMPENSATION COMMISSION

BY: JOSEPH I. LIEBERMAN
ATTORNEY GENERAL

Bernard F. McGovern Jr.
Assistant Attorney General

Robert W. Garvey
Assistant Attorney General

Thomas P. Clifford III

Thomas P. Clifford, III
Assistant Attorney General
P.O. Box 120
Hartford, Connecticut 06106

Telephone: (203) 566-4990

NO. 236582

IN THE SUPREME COURT OF THE UNITED STATES

IN RE:
GILBERT G. VELILLA

APPELLANT

vs.

U.T.C./HAMILTON STANDARD DIVISION,
LIBERTY MUTUAL INSURANCE CO.,
WORKERS' COMPENSATION COMMISSIONER,
et al.

APPELLEES

April 7, 1983

MOTION TO DISMISS OR AFFIRM

BY: JOSEPH I. LIEBERMAN
ATTORNEY GENERAL

Bernard F. McGovern Jr.
Assistant Attorney General

Robert W. Garvey
Assistant Attorney General

Thomas P. Clifford, III
Assistant Attorney General
Attorney for Appellee
Workers' Compensation Commissioner
P.O. Box 120
Hartford, Connecticut 06106

Telephone: (203) 566-4990

NO. 236582

IN RE:
GILBERT G. VELILLA,

APPELLANT

vs.

U.T.C./HAMILTON STANDARD DIVISION,
LIBERTY MUTUAL INSURANCE CO.,
WORKERS' COMPENSATION COMMISSIONER,
et al.

APPELLEES

APRIL 7, 1983

CERTIFICATE OF SERVICE

I, Thomas P. Clifford, III, a member of the bar of the Supreme Court of the United States and Counsel for the State of Connecticut Workers' Compensation Commissioner, appellee, hereby certifies that on April 7, 1983 and pursuant to Rule 28, Rules of the Supreme Court, I served one copy of the attached Motion to Dismiss or Affirm on each of the parties herein as follows:

On April 7, 1983 to Appellant, Gilbert G. Velilla, by depositing such copy in the U.S. Post Office, Hartford, Connecticut, with first class postage prepaid, properly addressed to the post office address of the above named at 719 Belmont Avenue, Springfield, Massachusetts, 01108; and

On April 7, 1983 to John R. Fitzgerald, Esq., Howard, Kohn, Sprague & Fitzgerald, attorneys for appellees, U.T.C./Hamilton Standard Division and Liberty Mutual Insurance Company by depositing such copy in the U.S Post office, Hartford, Connecticut, with first class postage prepaid, properly addressed to the above named at 237 Buckingham Street, Hartford, Connecticut, 06106.

All parties required to be served have been served.

DATED: April 7, 1983

Thomas P. Clifford, III
Assistant Attorney General

4/15 April 15 Conf. Page 8

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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1982

No. 82- 6249

RECEIVED
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OFFICE OF THE CLERK
SUPREME COURT, U.S.

GILBERT G. VELILLA

APPELLANT

-vs-

UTC/HAMILTON STANDARD DIVISION
LIBERTY MUTUAL INSURANCE COMPANY
WORKER'S COMPENSATION COMMISSIONER
THE STATE OF CONNECTICUT
ET AL

APPELLEES

REPLY TO MOTION TO DISMISS OR AFFIRM BY APPELLEES
AND SUPPLEMENTAL MEMORANDUM

RESPECTFULLY SUBMITTED BY

GILBERT G. VELILLA
719 Belmont Ave.
Spfld. Mass. 01108
Tel. (413) 736-1682

APPELLANT PRO SE

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1982

No. 82-6249

GILBERT G. VELILLA

APPELLANT

-vs-

UTC/HAMILTON STANDARD DIVISION
LIBERTY MUTUAL INSURANCE COMPANY
WORKMEN'S COMPENSATION COMMISSIONER
THE STATE OF CONNECTICUT
ET AL

APPELLEES

REPLY TO MOTION TO DISMISS OR AFFIRM BY APPELLEES
AND SUPPLEMENTAL MEMORANDUM

Pursuant to Supreme Court Rule 16 .5 and .6 appellant Gilbert G.Velilla refutes the arguement by appellees UTC/Hamilton Standard Division and Liberty Mutual Insurance Company.

And will show as supplemental new matter how the absence of response by the State of Connecticut Attorney General's office is eloquent by it's silence.

STATEMENT OF THE CASE

Appellant hereby adopts the statement of the case as presented in the Jurisdictional Statement docketed on February 17, 1983 by the Clerk's office of this United States Supreme Court.

REBUTTAL ARGUEMENT

The Appellees UTC/Hamilton Standard Division and Liberty Mutual Insurance Company on page (8) of their Arguement state that this Supreme Court may have Original Jurisdiction, but not Appellate Jurisdiction. Also that the State has never been a party plaintiff in the instant matter and therefore Title 28 USC Sec. 1251 does not provide this Court with Jurisdiction over the instant matter before the Court for Adjudication.

ANSWER: Appellate Jurisdiction is also provided, to this U.S. Supreme Court by virtue of having Original, but not Exclusive jurisdiction. Where the Issues

involve a State and a Citizen of another State.Meaning that the State Supreme Court had the right to Adjudicate the Constitutional Violations presented by Appellant. The failure to do so thusly convey's Appellate Jurisdiction to this U.S. Supreme Court upon Appeal from the Denial by the State Supreme Court.

According to established Legal Precedent the State can be either a party Plaintiff or a party Defendant.

CASE CITED:

> "The original jurisdiction vested by the Constitution in the Supreme Court over controversies in which a state was a party was not affected by the question whether the state was a party plaintiff or a party defendant. Minnesota v. Hitchcock, Minn. 1902, 22 S. Ct. 650, 185 U.S. 373, 46 L.ED. 954."

Where Appellant in his Motion For Reconsideration to the State Supreme Court properly invoked Title 28 USC Sec. 1251 thusly enabling that Supreme Court to assume Jurisdictional Power's over the Issues. It was error for the Court to have refused to do so and Deny the Reconsideration.

The State of Connecticut Attorney General's office had Represented the Workmen's Compensation Commissioner during Federal Court proceeding's,with a variety of Brief's every step of the way. It is significant that the new Attorney General has after careful evaluation of the facts and the evidence decided not to oppose Appellant.Especially where the State took note of the fact that Appellees (Employer-Insurer) had indeed Breached the Contract they have with the State,as alleged by Appellant. Where it would not be good form to now join with Appellant,after having opposed him in the prior proceeding's the State has done the next best thing. It's non-response is eloquent,demonstrating to Appellant and to this U.S. Supreme Court that Justice survives and is alive and well. In the State of Connecticut once again. Understandably,they,the State are not being sued and thusly did not have to answer on behalf of any particular State Administrative or Judicial party. Nevertheless, they could have offered an alignment with the other Appellees as they have done in the past. The in effect Nolo-Contendre demonstrates a new and positive enlightenment.

The State of Connecticut does not have provision for an ex parte request for Ruling to it's Supreme Court on Issues of Law. Which is why Appellant used the State Court Docket number to show he was an aggieved party,and that there existed bona fide Respondents to the Issues presented for Review and Ruling.

The reason also why Appellant had to Invoke Title 28 USC Sec. 1251 in order that Jurisdiction be assumed by the State Supreme Court of Connecticut.

This U.S. Supreme Court has Ruled that at the Administrative level,Trial by Jury is not an absolute,where the State provides an adequate Administrative Forum.In the instant matter Trial by Jury had been requested at the Superior

Court Level on Appeal from an Administrative Finding and Award that was not in Compliance with the Statutes,and which failed to address a Breach of Contract by Respondents (Employer- Insurer). Those issues were of Law and not of Equity and therefore the 7th Amendment is of moment. When State Rules of Practise prohibit the exercise of the Right to Trial by Jury those Rules surpass the normal bounds of police State Powers often granted to the States.

Appellant,challenges the usage of Appellees of Title 28 USC 1257. They did not cross appeal,therefore the issues to be addressed by them are those in which Appellant has invoked or used.Although it is not detrimental to Appellant it is used by Appellees to sidetrack the Court away from the main issue of the U.S.Supreme Court's Original Jurisdiction as provided under the Constitution by Title 28 USC Sec. 1251 and " By the Judiciary Act of 1789, c. 20, sec. 13, 1 Stat. 80. (formely section 341 of this title).

It is noteworthy,that Appellees,(Employer-Insurer) now concede that Title 28 USC Sec. 1343 (3) confers further Jurisdiction,but only to the Federal District Court. Unawares,perhaps,that this Court is oftentimes called the Federal Supreme Court.

CONCLUSION

Appellant,is a Citizen of the State of Massachusetts,and in the State of Connecticut his Constitutional Rights have been Violated by State Statutes,and Rulings (Adzima) by Fraudulent Practise (Appellees,Employer-Insurer) and under color of State Law through unlawful and illegal Adjudication,Administrative and Judicial. This United States Supreme Court has Original Jurisdiction,to Adjudicate on the Merits,or to Rule for Appellant upon Summary Disposition.

WHEREFORE:

Appellant, respectfully requests that Appellees Motion to Dismiss or Affirm be Denied,and that upon Summary Disposition the Court Rule for Appellant.

Or in the alternative,that Jurisdiction and a Hearing on the Merit's be granted as is provided by the established law.

Respectfully Submitted By

GILBERT G. VELILLA
719 Belmont Ave.
Spfld. Mass. 01108
Tel. (413)736-1682

APPELLANT PRO SE

DATED: March 29, 1983

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1982

No. 82-6249

GILBERT G. VELILLA
APPELLANT

V.

UTC/HAMILTON STANDARD DIVISION
LIBERTY MUTUAL INSURANCE COMPANY
WORKMEN'S COMPENSATION COMMISSIONER
THE STATE OF CONNECTICUT
ET AL

APPELLEES

March 29, 1983

CERTIFICATE OF SERVICE

I, Gilbert G. Velilla do hereby certify that on March 29, 1983 a copy of Reply/ To Motion to Dismiss or Affirm/and Supplemental Memorandum was sent to Howard, Kohn, Sprague,and FitzGerald Esq.'s whose address is 237 Buckingham St. P.O. Box 6896 Sta. A Hartford,Conn. 06106. Attorney's for UTC/Hamilton Standard and Liberty Mutual Ins. Co. By First Class Certified Mail.

A copy of Reply/ To Motion to Dismiss or Affirm and Supplemental Memorandum was also sent to Assistant Attorney General Thomas P. Clifford III whose address is P.O. Box 120 Hartford,Conn. 06101. And whom represent the Workmen's Compensation Commissioner and the State of Connecticut. On March 29,1983 by First Class Certified Mail.

GILBERT G. VELILLA
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Appellant Pro Se

DATED: MARCH 29, 1983